

ELECTIONEERING

Q What is the “**100 FOOT RULE**”?

A Montana law restricts campaigning, or “electioneering,” on election day “within any polling place. . . or within 100 feet of any entrance to the building which the polling place is located. . .” (13-35-211, MCA)

Q What is “**ELECTIONEERING**?”

A Electioneering in this instance means *soliciting support or opposition to a candidate or issue* to be voted on at the polling place in question.

Electioneering *includes personal persuasion* and the *display or distribution of campaign materials*.

Offering or distributing food, drink, or any other material benefit in order to encourage recognition, support, or opposition to a candidate or issue is also prohibited. (44.10.311, ARM)

Q **HOW DO I MEASURE**—is it **100 FEET** beyond the parking lot, or beyond the building entrance? Which entrance?

A The law states “within 100 feet of any entrance to the building in which the polling place is located. . .” (13-35-211, MCA)

Q **WHAT DO I DO IF I SEE A VIOLATION?**

A *Inform the polling place official.* If the official is not able to correct the problem, he or she should call law enforcement.

“An election officer, sheriff, constable, or other peace officer may clear the passageway, prevent any obstruction, or arrest any individual obstructing the passageway to a polling place.” (13-13-122, MCA)

“No person on election day may obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner which in any way interferes with the election process or obstructs the access of voters to or from the polling place.” (13-35-218(5), MCA)

Q How about campaigning/electioneering in the area **BEYOND 100 FEET** from the **POLLING PLACE**?

A The distance prohibiting electioneering was reduced from 200 feet to 100 feet in the 2001 Legislative Session to make the statute more likely to survive a constitutional First Amendment (“free speech”) challenge. Generally, *speech beyond 100 feet from the polling place is not restricted*.

Q Can I wear a **BADGE OR BUTTON TO THE POLLS**? How about a shirt promoting my candidate? And what about bumper stickers?

A A person “*may not buy, sell, give, wear, or display* at or about the polls on election day any badge, button or other insignia which is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon.” (13-35-211, MCA) “At or about the polls” is construed to include the 100 foot zone. The law does not specifically require that you remove political bumper stickers before parking at the polls, however.

Q Can **ELECTION MATERIALS** be brought into a **POLLING PLACE**?

A *Soliciting support or opposition to a candidate or issue at a polling place is prohibited* when that candidate or issue is on the ballot. Electors are not specifically prohibited from bringing other election materials into the polling place for their own use. However, to avoid problems or questions this practice should be discouraged.

Q Can people **GATHER SIGNATURES ON PETITIONS IN THE POLLING PLACE**?

A Orderly *signature gathering that does not interfere with the election process* or obstruct voter access to the polls is *not prohibited* by these statutes (as long as the petition does not concern an issue being voted on at the polling place).

Q Can **CANDIDATES BE PRESENT IN THE POLLING PLACE**? Can they work the polls?

A These statutes *do not prohibit candidates in the polling place*—they *prohibit electioneering* (which includes campaigning) in or about the polling place.

Q What **OTHER STATUTES, RULES, OR DECISIONS** do you suggest I read?

A **ELECTIONEERING**—soliciting information from electors.

(1) A person *may not do any electioneering on election day within any polling place* or any building in which an election is being held or within 100 feet of any entrance to the building in which the polling place is located, which aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

(2) A person *may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia* which is designed or tends to *aid or promote the success or defeat of any candidate or ballot issue* to be voted upon at the election.

(3) A person within a polling place or any building in which an election is being held *may not solicit from an elector, before or after the elector has marked a ballot* and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue.” (13-35-211, MCA, emphasis added)

ELECTIONEERING—interpretive rule (1) As used in 13-35-211, MCA, “electioneering” means the *solicitation of support or opposition to a candidate or issue* to be voted upon at the election or polling place in question, by means of:

(a) *Personal persuasion*, electronic amplification of the human voice, or the display or *distribution of campaign materials*.

(b) Offering or distribution of food, drink, or any other *material benefit in a manner calculated to encourage recognition, support, or opposition to a candidate or issue*.

(c) “Electioneering” *does not include the display of ordinary bumper stickers* on automobiles.” (44.10.311, ARM, emphasis added)

Gee v. Childers (2/17/00) politicalpractices.mt.gov/2recentdecisions/campaignfinance.asp

Butorovich v. Walsh (11/02/00) politicalpractices.mt.gov/2recentdecisions/campaignfinance.asp

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